IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.1398 OF 2003

Shri Parshuram Nagesh Dandekar,
Adult, Occ: Agriculture,
residing at Gat No.276,
Paranwadi, Taluka Maval,
District Pune.
Through Power of Attorney
Shri Manohar K. Mehendale,
Adult occ: Nil, residing
at C/o M/s. Mehendale
Garage, 31/1, Erandwana,
Pune-411 004. .... Petitioner

- Versus -

1. Zilla Parishad, Pune.
2. Panchayat Samittee
   Maval, Tal. Vadgaon
   Maval, Dist: Pune.
3. Bharat Yatra Kendra
   having its office at
   Paranwadi, Tal. Maval,
   Dist: Pune.
4. Shri Chandrashekhar
   the Ex-Honourable Prime
   Minister of India, having

its address New Delhi and

also C/o Bharat Yatra

Kendra, Paranwadi,

Tal. Maval, Dist: Pune.

5. The Deputy Engineer,

Zilla Parishad Sub-Division,

Maval, Dist: Pune. .... Respondents

Sarvasri S.B. Deshmukh i/b A.V. Anturkar

for the Petitioner.

Shri Nitin P. Deshpande for the Respondent

No.1.

CORAM: R.M.S. KHANDEPARKAR &

V.M. KANADE, JJ.

DATED: SEPTEMBER 14, 2005

ORAL JUDGMENT (Per R.M.S.Khandeparkar, J.):

1. Heard. Only grievance which the petitioner seeks to make in the petition is that the respondent-Zilla Parishad has constructed a road through his property without acquiring the land in terms of provisions of the Land Acquisition Act, 1894. The said property bears Gat No.276 and is situated at Paranwadi, Taluka Maval, District Pune. It is the contention of the petitioner that the property was purchased by the petitioner in the year 1988 and at that time there was no road in

existence through the petitioner's property. However, some time prior to the filing of the petition in February, 2003, the respondent-Zilla Parishad without acquiring the land has constructed the said road for the benefit of the ashram of the respondent No.3 by name Bharat Yatra Kendra, situated in the neighbourhood of the said property.

2. It is the case of the respondents that the road in question was in existence since time immemorial and is being used, apart from the petitioner, by various other people. It was a kutcha road till 1991 and since the Prime Minister of India was to visit the Bharat Yatra Kendra in the year 1991, for security purposes the road was renovated and asphalted. In any case, the respondents have further stated that the Zilla Parishad has decided to acquire the land on which the said road exists and steps are being taken for initiating the acquisition proceedings. However, the office of the Collector has not been able to take necessary steps in that regard on account of the order of status quo by this Court in this petition.

3. Undisputedly, the petitioner has purchased the property in the year 1988. There is nothing placed on record which can authoritatively disclose about the absence of existence of the road through the petitioner's property prior to 1988. It is the case of

the respondents that the road in question was a kutcha road and had been in existence for number of years and has been used, apart from the petitioner, by various other villagers. In the circumstances, as regards the existence of the road, there are disputed questions of fact which cannot be adjudicated upon in the writ petition. However, as rightly submitted by the learned Advocate for the petitioner, the respondents having already decided to acquire the land occupied by the said road, no purpose would be served even assuming that the road was constructed in 1991 to restore back the land to the original position at this stage.

4. In the absence of a clear case being made out about the non-existence of the road in the petitioner's property prior to 1991 and since admittedly since 1991 the said road is in existence and steps are being taken by the respondents to acquire the land under the said road, while accepting the said statement on behalf of the respondents, nothing further is required to be done in the matter. The petition is accordingly disposed of.

The rule stands discharged with no order as to costs.

5. The cost which was directed to be deposited under the order dated 24-8-2005 by the respondent No.1 is

stated to have been deposited under the receipt dated 29-8-2005.

(V.M. Kanade, J.) **(R.M.S. Khandeparkar, J.)**